

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, September 9, 2009 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present

Tom Thornberry, *Chairman*
Audrey Seay, *Vice-Chair*
Ed Hittson, *Secretary*
Bob Stout
Bill Truex

Staff Present

Derek Rooney, *Assistant County Attorney*
Nicole C. E. Dozier, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

I. Call to Order

Chairman Thornberry called the September 9, 2009 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chairman Thornberry led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: *A motion was presented by Audrey Seay and seconded by Ed Hittson to approve the minutes of the August 12, 2009 meeting of the Board of Zoning Appeals, as written, with a unanimous vote.*

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the September 9, 2009 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chairman Thornberry introduced staff. *Nicole Dozier, Zoning Official, Attorney Derek Rooney and Chair Thornberry* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on August 25, 2009: VAR-09-12 and SE-09-16

Petition #VAR-09-12

Jay and Lucy Montero are requesting a variance to exceed the 35% maximum lot coverage of a lot by 132 square feet (from 4,594 to 4,726 square feet) to allow a roofed pool enclosure for an existing single-family residence in a Residential Single-family 3.5 (RSF-3.5) zoning district. The property address is 18907 McGrath Circle, Port Charlotte, Florida and is described as Lot 2, Block 2116, Port Charlotte Subdivision, Sub-section 29, located in Section 29, Township 40 South, Range 22 East. The property contains +/- 13,125 square feet. A complete legal description and additional information are on file.

Applicant Presentation

Dan Rice, Agent for the Applicant, said he has been sworn in. **Mr. Rice** said he is the general contractor. He said the structure was left open in one portion of the roof because of the lot coverage. The health conditions have worsen for the owners, and they would like to have a roof over the pool. They use the pool quite often for therapy.

Mr. Thornberry asked about the widows watch/coupala.

Mr. Rice said it is already in place, but below the 2 windows, that is the area left open. We will sheet over the opening and have the roof tile matching.

Mr. Truex asked due to the fact that the trusses were not originally designed to have any weight on them, what is that outcome?

Mr. Rice said we have had a few visits from the engineer on record, and the only thing we need to do is add the plywood sheathing on top. These trusses are pressure treated but are designed the normal way.

Mr. Quillen said before the original contractor started work, there were columns and beams that surrounded the pool to give it shape and define the outdoor area.

Mr. Thornberry asked if the County was satisfied with all inspections to date?

Mr. Quillen said that we do not know.

Mr. Rice said the plan of action is, if the Board approves the variance, the windows are not in the building, and we will be starting from scratch with all the connectors that are still exposed.

Mr. Thornberry said he is satisfied with that.

Public Hearing

No one spoke for or against this request.

There being no further requests to speak for or against the petition, the Public Hearing was closed. Mrs. Seay moved to close the public hearing, seconded by Mr. Stout, with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

ACTION: A motion was presented by Bill Truex and seconded by Bob Stout that VAR-09-12 be APPROVED for the Variance to exceed the 35% maximum lot coverage of a lot by 132 square feet based on the Growth Management Staff Report dated August 31, 2009, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the variance.

Motion was approved with a unanimous vote with the following conditions:

1. The variance as approved by the Board of Zoning Appeals is to increase the maximum lot area coverage of this 13,125 square foot lot by 132 square feet, from 4,594 square feet to 4,726 square feet, to allow a roof to be constructed over the existing swimming pool, as shown on **Site Plan #2** submitted and labeled Exhibit 3.
2. This variance extends to the existing single-family residence and the proposed roof addition and shall carry with the structures only. If the existing single-family residence is ever removed or replaced all future redevelopment must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

Mr. Truex said he has no exparte communications but he has to recues himself from Petition SE-09-16 because Rodriguez Grading does a lot of work for his company.

Petition #SE-09-16

Margo Rodriguez Grading, Inc. is requesting a special exception to allow a building trades contractor with outdoor storage yard in a Commercial Intensive (CI) zoning district. The property address is 17352 Abbott Avenue, Port Charlotte, Florida and is described as Lots 21 and 22, Block 1085, Port Charlotte Subdivision Sub-section 16, in Section 01, Township 40 South, Range 21 East. The property contains +/- 23,290 square feet.

Mrs. Seay asked Mr. Quillen, you indicated the applicant has not addressed the 6 standards that need to be met for the BZA to grant a special exception.

Mr. Quillen said the applicant is asked to address the standards, but staff has to do that anyway.

Applicant Presentation

Ken Kendall, Contractor/Agent for the Applicant, said he was sworn in. He asked Mr. Quillen what criteria was not addressed?

Mr. Quillen said it didn't say the criteria wasn't met. We state in our report (our findings) everything has been met. The applicant failed to address them in their narrative.

Mr. Kendall said oh, okay. He wanted to address them one by one.

Mr. Thornberry said he needed to address the Zoning Official. Reading everything and visiting the site, he wonders if this request is borderline where you could not have made the decision yourself?

Mr. Quillen said this is one of the better applications we have received for this type of petition.

Ms. Dozier said the issue is this is an outdoor storage lot. Within the CI zoning district, in order to operate a contractor's trade yard, you are required to obtain a special exception. Our Zoning Code is outdated. When we do the changes to the Zoning Code, we will look at allowing this by right.

Mr. Stout said this whole area was rezoned many years ago from CG to CI. Since then, the issue is people always wanting to store items or equipment without having a building.

Ms. Dozier said at this time, we do not allow plain outside storage by right in the CI zoning application. CI would require you to have a building to do your office work. Right now they are asking for the "use".

Mr. Kendall said he feels they have met the criteria and will answer any questions.

Mrs. Seay said she saw a building on a lot behind your lot.

Mr. Kendall said that is someone else's lot.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Stout moved to close the public hearing, seconded by Mrs. Seay. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

ACTION: *A motion was presented by Bob Stout and seconded by Audrey Seay that Petition SE-09-16 be APPROVED based on the Growth Management Staff Report dated August 31, 2009, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception with 5 conditions.*

Motion was approved with a unanimous vote with the following conditions:

1. This special exception is for an accessory use consisting of an outdoor storage yard for a grading contractor's business located on site in a principal building. This special exception extends only to the land included in the Site/Utility Plan and legal description submitted with this application.
2. A principal building to house the grading contractor's office must be constructed on subject property prior to the establishment of any outdoor storage use on the property.
3. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the existing commercial business and all associated signage. A revised detailed site plan that meets all of the requirements of code must be approved through the Site Plan Review process prior to issuance of any permits.
4. The access drive located between the rear of the building and the access drive on Sally Street must be paved with a hard surface as approved through the Site Plan Review process.
5. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

IX. Public Comments - None

X. Staff Comments

Ken Quillen said the next meeting is October 14, 2009 and we have 2 applications.

XI. Member Comments

Mrs. Seay said at one of the County Commission meetings, Commissioner Starr brought up an issue of a piece of property on Route 17, and that was before the BZA

3 or 4 years ago. She cannot recall whether it was granted or not. She said the owner is still having problems. If we granted something, why would she still have problems?

Mr. Quillen said there was a sunset. It was only granted for a temporary time. He said there is another lot close to it with issues.

Mr. Thornberry asked to have an outdoor storage yard in CI, how long has this been enforced?

Ms. Dozier said the contractor's trade yard use has been in place before she started in 2005. There has not been any change.

Mr. Thornberry said he knows of quite a few storage yards outdoors which are a mess. They are close to million dollar sites.

There was discussion about outside storage and trade contractor use.

XII. Next Meeting

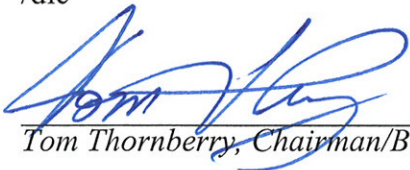
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, October 14, 2009, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:05 a.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: 10-14-09